

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BENJAMIN L MARTINEZ,

Plaintiff,

Case No. C14-1107 JLR-BAT

V.

SNOHOMISH COUNTY JAIL,

Defendants.

REPORT AND RECOMMENDATION

Pro se plaintiff Benjamin L. Martinez was granted leave to proceed in forma pauperis (Dkt. 5) and his proposed civil rights complaint was docketed (Dkt. 6). The Court declined to serve the complaint and ordered Plaintiff to show cause why the case should not be dismissed given that plaintiff failed to allege facts sufficient to state a claim under 42 U.S.C. ¶ 1983. In response, Plaintiff sent a letter to the Court asking that the action be dismissed without prejudice. Dkt. 8. The request should be granted.

DISCUSSION

Under Federal Rule of Civil Procedure 41(a)(1), an action may be dismissed by the plaintiff without order of court any time before the defendant answers the complaint. Here, no defendants have been served the complaint and therefore, the Court recommends granting plaintiff's motion to voluntarily dismiss.

CONCLUSION

For the foregoing reasons, the Court recommends **GRANTING** Plaintiff's motion to voluntarily dismiss (Dkt. 8). Any objections to this Recommendation must be filed no later than **Monday, September 22, 2014**. The Clerk should note the matter for **Thursday, September 25, 2014**, as ready for the District Judge's consideration. Objections shall not exceed eight (8) pages. The failure to timely object may affect the right to appeal.

DATED this 2nd day of September, 2014.


BRIAN A. TSUCHIDA
United States Magistrate Judge